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1  
 2 An act relating to fraud prevention; creating s.  
 3 324.252, F.S.; requiring that the electronic  
 4 credentialing system display certain vehicle  
 5 information, provide certain notification for a  
 6 specified purpose, and allow drivers to update certain  
 7 information by a specified date; requiring the  
 8 Department of Highway Safety and Motor Vehicles to  
 9 provide the Legislature with recommendations for  
 10 compliance verification with certain financial  
 11 responsibility requirements by a specified date;  
 12 amending s. 501.165, F.S.; requiring certain sellers  
 13 to allow consumers to cancel in a specified manner and  
 14 by a specified means service contracts that include  
 15 automatic renewal provisions; amending s. 626.854,  
 16 F.S.; revising maximum fines for public adjusters and  
 17 public adjuster apprentices for certain violations  
 18 under a specified circumstance; revising maximum fines  
 19 for certain violations by certain persons under a  
 20 specified circumstance; amending s. 633.126, F.S.;  
 21 authorizing the department to impose an administrative  
 22 fine on insurance companies under certain  
 23 circumstances; deleting criminal penalties;  
 24 authorizing the division to adopt certain rules;  
 25 amending s. 634.095, F.S.; revising requirements for

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26 advertisements issued or caused to be issued by  
 27 service agreement companies or salespersons; amending  
 28 s. 775.15, F.S.; revising felony violations for which  
 29 prosecutions must be commenced within a specified  
 30 timeframe; amending s. 817.234, F.S.; providing that  
 31 certain insurers are entitled to recover specified  
 32 expenses at the trial and appellate courts under  
 33 certain circumstances; providing a transfer of funds;  
 34 providing an appropriation; providing effective dates.

35

36 Be It Enacted by the Legislature of the State of Florida:

37

38 Section 1. Section 324.252, Florida Statutes, is created  
 39 to read:

40 324.252 Electronic insurance verification.-

41 (1) In order to empower drivers in this state and reduce  
 42 the incidence of automobile insurance fraud within this state,  
 43 by July 1, 2023, the electronic credentialing system, as defined  
 44 in s. 322.032(1), must display driver vehicle registration and  
 45 insurance information, provide a driver with notification of any  
 46 lapse in his or her insurance coverage needed for compliance  
 47 with the financial responsibility requirements of this chapter,  
 48 and allow the driver to update his or her policy information via  
 49 the system.

50 (2) By October 1, 2023, the department shall provide the

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51 Legislature with recommendations on the means by which the  
 52 department, law enforcement agencies, and other entities  
 53 authorized by the department may electronically verify a  
 54 driver's compliance with the financial responsibility  
 55 requirements of this chapter.

56 Section 2. Subsection (2) of section 501.165, Florida  
 57 Statutes, is amended to read:

58 501.165 Automatic renewal of service contracts.—

59 (2) SERVICE CONTRACTS WITH AUTOMATIC RENEWAL PROVISIONS.—

60 (a) A ~~Any~~ seller that sells, leases, or offers to sell or  
 61 lease any service to a consumer pursuant to a service contract  
 62 that has an automatic renewal provision, unless the consumer  
 63 cancels that contract, shall disclose the automatic renewal  
 64 provision clearly and conspicuously in the contract or contract  
 65 offer.

66 (b) A ~~Any~~ seller that sells or offers to sell any service  
 67 to a consumer pursuant to a service contract the term of which  
 68 is a specified period of 12 months or more and that  
 69 automatically renews for a specified period of more than 1  
 70 month, unless the consumer cancels the contract, shall provide  
 71 the consumer with written or electronic notification of the  
 72 automatic renewal provision. Notification shall be provided to  
 73 the consumer no less than 30 days or no more than 60 days before  
 74 the cancellation deadline pursuant to the automatic renewal  
 75 provision. Such notification shall disclose clearly and

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76 conspicuously:

77 1. That unless the consumer cancels the contract the  
78 contract will automatically renew.

79 2. Methods by which the consumer may obtain details of the  
80 automatic renewal provision and cancellation procedure, whether  
81 by contacting the seller at a specified telephone number or  
82 address, by referring to the contract, or by any other method.

83 (c) A seller that fails to comply with the requirements of  
84 this subsection violates ~~is in violation of~~ this subsection  
85 unless the seller demonstrates that:

86 1. As part of the seller's routine business practice, the  
87 seller has established and implemented written procedures to  
88 comply with this section and enforces compliance with the  
89 procedures;

90 2. Any failure to comply with this subsection is the  
91 result of error; and

92 3. As part of the seller's routine business practice,  
93 where an error has caused the failure to comply with this  
94 subsection, the unearned portion of the contract subject to the  
95 automatic renewal provision is refunded as of the date on which  
96 the seller is notified of the error.

97 (d) A seller that enters into or renews any service  
98 contract with a consumer which includes an automatic renewal  
99 provision must allow the consumer to cancel the service contract  
100 in the same manner, and by the same means, as the consumer

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101 manifested his or her acceptance of the service contract.

102 (e) This subsection does not apply to:

103 1. A financial institution as defined in s. 655.005 or any  
104 depository institution as defined in 12 U.S.C. s. 1813(c)(2).

105 2. A foreign bank maintaining a branch or agency licensed  
106 under the laws of any state of the United States.

107 3. Any subsidiary or affiliate of an entity described in  
108 subparagraph 1. or subparagraph 2.

109 4. A health studio as defined in s. 501.0125.

110 5. Any entity licensed under chapter 624, chapter 627,  
111 chapter 634, chapter 636, or chapter 641.

112 6. Any electric utility as defined in s. 366.02.

113 7. Any private company as defined in s. 180.05 providing  
114 services described in chapter 180 which is competing against a  
115 governmental entity or has a governmental entity providing  
116 billing services on its behalf.

117 (f)~~(e)~~ A violation of this subsection renders the  
118 automatic renewal provision void and unenforceable.

119 Section 3. Paragraphs (b) and (c) of subsection (22) of  
120 section 626.854, Florida Statutes, are amended, and paragraph  
121 (a) of that subsection is republished, to read:

122 626.854 "Public adjuster" defined; prohibitions.—The  
123 Legislature finds that it is necessary for the protection of the  
124 public to regulate public insurance adjusters and to prevent the  
125 unauthorized practice of law.

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126 (22) (a) Any following act by a public adjuster, a public  
 127 adjuster apprentice, or a person acting on behalf of a public  
 128 adjuster or public adjuster apprentice is prohibited and shall  
 129 result in discipline as applicable under this part:

130 1. Offering to a residential property owner a rebate,  
 131 gift, gift card, cash, coupon, waiver of any insurance  
 132 deductible, or any other thing of value in exchange for:

133 a. Allowing a contractor, a public adjuster, a public  
 134 adjuster apprentice, or a person acting on behalf of a public  
 135 adjuster or public adjuster apprentice to conduct an inspection  
 136 of the residential property owner's roof; or

137 b. Making an insurance claim for damage to the residential  
 138 property owner's roof.

139 2. Offering, delivering, receiving, or accepting any  
 140 compensation, inducement, or reward for the referral of any  
 141 services for which property insurance proceeds would be used for  
 142 roofing repairs or replacement.

143 (b) Notwithstanding the fine set forth in s. 626.8698, a  
 144 public adjuster or public adjuster apprentice may be subject to  
 145 a fine not to exceed \$10,000 per act for a violation of this  
 146 subsection and a fine not to exceed \$20,000 per act for a  
 147 violation of this subsection that occurs during a state of  
 148 emergency declared by executive order or proclamation of the  
 149 Governor pursuant to s. 252.36.

150 (c) A person who engages in an act prohibited by this

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151 subsection and who is not a public adjuster or a public adjuster  
 152 apprentice, or is not otherwise exempt from licensure, is guilty  
 153 of the unlicensed practice of public adjusting and may be:

154 1. Subject to all applicable penalties set forth in this  
 155 part.

156 2. Notwithstanding subparagraph 1., subject to a fine not  
 157 to exceed \$10,000 per act for a violation of this subsection and  
 158 a fine not to exceed \$20,000 per act for a violation of this  
 159 subsection that occurs during a state of emergency declared by  
 160 executive order or proclamation of the Governor pursuant to s.  
 161 252.36.

162 Section 4. Subsection (9) of section 633.126, Florida  
 163 Statutes, is amended, subsection (10) is added to that section,  
 164 and subsection (2) of that section is republished, to read:

165 633.126 Investigation of fraudulent insurance claims and  
 166 crimes; immunity of insurance companies supplying information.—

167 (2) If an insurance company has reason to suspect that a  
 168 fire or explosion loss to its insured's real or personal  
 169 property was caused by intentional means, the company shall  
 170 notify the State Fire Marshal and shall furnish her or him with  
 171 all material acquired by the company during its investigation.  
 172 The State Fire Marshal may adopt rules to implement this  
 173 subsection.

174 (9) If an insurance company fails or otherwise refuses to  
 175 comply with this section, the department may impose an

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176 administrative fine of not more than \$2,000 per day for such  
177 failure until the department deems the insurance company to be  
178 in compliance ~~A person who willfully violates this section~~  
179 ~~commits a misdemeanor of the first degree, punishable as~~  
180 ~~provided in s. 775.082 or s. 775.083.~~

181 (10) The Division of Investigative and Forensic Services  
182 may adopt reasonable rules as are necessary to administer this  
183 section. Such rules must meet all of the following requirements:

184 (a) They may not enlarge upon or extend the provisions of  
185 this section.

186 (b) They must identify specific factors that determine the  
187 grades of penalty.

188 (c) They must specify mitigating and aggravating factors  
189 for a violation of this section.

190 Section 5. Effective March 1, 2023, present paragraphs  
191 (b), (c), and (d) of subsection (3) of section 634.095, Florida  
192 Statutes, are redesignated as paragraphs (d), (e), and (f),  
193 respectively, new paragraphs (b) and (c) are added to that  
194 subsection, and paragraph (a) of that subsection is amended, to  
195 read:

196 634.095 Prohibited acts.—Any service agreement company or  
197 salesperson that engages in one or more of the following acts  
198 is, in addition to any applicable denial, suspension,  
199 revocation, or refusal to renew or continue any appointment or  
200 license, guilty of a misdemeanor of the second degree,



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201 punishable as provided in s. 775.082 or s. 775.083:

202 (3) Issuing or causing to be issued any advertisement that  
 203 ~~which~~:

204 (a) Does not fully disclose in a written advertisement, in  
 205 at least 12-point, boldfaced type, the name, address, and  
 206 Florida Company Code license number of the service agreement  
 207 company.

208 (b) Does not fully disclose in a radio or television  
 209 advertisement the full legal name of the licensed salesperson or  
 210 the service agreement company.

211 (c) Does not fully identify the soliciting licensed  
 212 salesperson's full legal name and license number when the  
 213 salesperson begins, and the soliciting salesperson's telephone  
 214 number when the salesperson concludes, each outbound telephone  
 215 solicitation. For the purposes of this paragraph, the actual  
 216 telephone number of the salesperson may be the number on file  
 217 with the department or the number at which the salesperson may  
 218 be contacted.

219 Section 6. Subsection (11) of section 775.15, Florida  
 220 Statutes, is amended to read:

221 775.15 Time limitations; general time limitations;  
 222 exceptions.—

223 (11) A prosecution for a felony violation of s. 440.105 or  
 224 s. 817.234 ~~ss. 440.105 and 817.234~~ must be commenced within 5  
 225 years after the violation is committed.

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226 Section 7. Subsection (5) of section 817.234, Florida  
 227 Statutes, is amended to read:

228 817.234 False and fraudulent insurance claims.—

229 (5) (a) Any insurer damaged as a result of a violation of  
 230 any provision of this section when there has been a criminal  
 231 adjudication of guilt shall have a cause of action to recover  
 232 compensatory damages, plus all reasonable investigation and  
 233 litigation expenses, including attorney ~~attorneys'~~ fees, at the  
 234 trial and appellate courts.

235 (b) If an insurer damaged as a result of a violation of  
 236 any provision of this section has reported the possible  
 237 fraudulent insurance act to the Division of Investigative and  
 238 Forensic Services pursuant to s. 626.9891 and if there has been  
 239 a criminal adjudication of guilt, the insurer is entitled to  
 240 recover reasonable investigation and litigation expenses,  
 241 including attorney fees, at the trial and appellate courts.

242 Section 8. The nonrecurring sum of \$1,413,270 for Fiscal  
 243 Year 2022-2023 shall be transferred by nonoperating budget  
 244 authority from the Insurance Regulatory Trust Fund of the  
 245 Department of Financial Services to the Highway Safety Operating  
 246 Trust Fund of the Department of Highway Safety and Motor  
 247 Vehicles to implement the electronic insurance verification  
 248 provisions of s. 324.252, Florida Statutes.

249 Section 9. For the 2022-2023 fiscal year, the nonrecurring  
 250 sum of \$1,413,270 from the Highway Safety Operating Trust Fund

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251 is appropriated to the Information Systems Administration budget  
252 entity in the Department of Highway Safety and Motor Vehicles to  
253 implement the electronic insurance verification provisions  
254 required under s. 324.252, Florida Statutes.

255 Section 10. Except as otherwise expressly provided in this  
256 act, this act shall take effect upon becoming a law.